

REMARKS

In the Final Office Action, claims 1-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,630,069 to Flores et al. ("*Flores*") in view of a Business Wire article, entitled "DeskTalk Announces Next Generation TREND ReportPacks Automating Web-Based Performance Reporting" ("*Business Wire Article*"). Because Applicants disagreed with this rejection, Applicants filed a Request for Reconsideration on July 2, 2004, providing several reasons for why claims 1-57 are allowable over the prior art and requesting withdrawal of this rejection.

Subsequently, Applicants received an Advisory Action mailed on July 28, 2004, indicating that the Request for Reconsideration had been considered, but did not place the application in condition for allowance. (Advisory Action at 2.) Although Applicants disagree with the Examiner that claims 1-57 are not allowable over the applied art, Applicants are filing this Amendment as well as a Request for Continued Examination ("RCE") to expedite prosecution of this application. By this Amendment, Applicants have added claims 58-65. Accordingly, claims 1-65 are now pending in this application. All of the claims are allowable over the applied art for the following reasons.

With respect to claims 1-57, Applicants submit that these claims are allowable at least for the reasons set forth in the Request for Reconsideration. It appears that the Examiner never considered all of the reasons set forth in the Request for Reconsideration. Specifically, the Advisory Action appears to have considered only one of the arguments Applicants presented in the Request for Reconsideration. It indicates that the "depicting a plurality of interlocking polygons illustrating interactions between the participants, the polygons being positioned relative to each other to define the

participants for the interactions” language is “considered non-functional descriptive material” and “[a]s such, the references teach the technical aspects of the applicant’s invention.” (Advisory Action at 3.) The Advisory Action, however, fails to address the other arguments presented by Applicants in the Request for Reconsideration. For example, with respect to claim 1, Applicants also argued in the Request for Reconsideration that “neither *Flores* nor the *Business Wire Article* teaches or suggests ‘deriving an interaction view from the business view . . . the interaction view depicting additional information between the participants,’ as required by claim 1.” (Request for Reconsideration at 3.) As far Applicants can tell, the Examiner does not appear to have considered this argument or any of the other arguments with respect to claims 1-57, since the Advisory Action never addresses, much less responds to those arguments. Accordingly, Applicants respectfully request that the Examiner consider and respond to all of the arguments with respect to claims 1-57 enumerated in the Request for Reconsideration.

Moreover, Applicants do not agree with the Examiner that the “interlocked polygon” language is not worthy of patentable weight. The Examiner provides no authority for this position. The Examiner appears to be reviving the old “printed matter” rejection, which holds that “[w]here the printed matter is not functionally related to the substrate the printed matter will not distinguish the invention from the prior art in terms of patentability.” *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983). *Gulack*, however, cautioned against extending the printed matter rejection to computer cases.

A “printed matter rejection” under § 103 stands on questionable legal and logical footing. Standing alone, the description of an element of the

invention as printed matter tells nothing about the differences between the invention and the prior art or about whether that invention was suggested by the prior art. . . . [The Court of Customs and Patent Appeals], notably weary of reiterating this point, clearly stated that printed matter may well constitute structural limitations upon which patentability can be predicated.

703 F.2d at 1385 n.8.

When the USPTO tried to do this in another context, the CCPA explained,

On their facts, those cases dealt with claims defining as the invention certain novel arrangements of printed lines or characters, useful and intelligible only to the human mind. Here the invention as defined by the claims requires that the information be processed not by the mind but by a machine, the computer, and that the drawing be done not by a draftsman but by a plotting machine. Those "printed matter" cases therefore have no factual relevance here.

In re Bernhart, 417 F.2d 1395, 1399 163 USPQ 611, 615 (CCPA 1969). See also *In re Lowry*, 32 F.3d 1579, 1583 (Fed. Cir. 1994). In claim 1, for example, the interlocked polygons illustrate interactions between the participants and define the participants for the interactions. These define functions determined by a data processor and are worthy of patentable weight. Accordingly, contrary to the Examiner's belief, the interlocked polygons language recited in claim 1 and the other claims does have patentable weight.

With respect to new independent claims 58 and 62, these claims are allowable at least because neither *Flores* nor the *Business Wire Article* teaches or suggests the combination of features recited in these claims. For example, neither *Flores* nor the *Business Wire Article* teaches or suggests "providing on a display device coupled to a data processing system, a first view showing the participants, interactions between the participants, and defining the participants for the interactions; providing on the display device, using the data processing system, a second view showing a sequence of the interactions; and providing on the display device, using the data processing system, a

third view showing an implementation of the first view and the second view in a physical system," as required by claim 58. Similarly, neither *Flores* nor the *Business Wire Article* teaches or suggests "creating, using a data processing system, a first view showing at least the participants and activities performed by the participants; creating, using the data processing system, a second view showing at least a sequence of the activities; and creating, using the data processing system, a third view showing at least an implementation of the first view and the second view in a physical system," as required by claim 62.

As for dependent claims 59-61 and 63-65, these claims are allowable at least because they depend from claims 58 or 62, which are allowable for the reasons set forth above.


In view of the foregoing amendments and remarks, Applicants respectfully request withdrawal of the rejections, reconsideration and reexamination of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By 

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